



Hearing Transcript

Project:	M5 Junction 10 Improvements Scheme
Hearing:	Compulsory Acquisition Hearing 2 (CAH2)
Date:	20 November 2024

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compulsory acquisition, land rights, outstanding objections, temporary possession, residential properties, flood profiles, voluntary acquisition, access design, safeguarded land, planning application, development access, statutory tests, separation distance, specified work, cooperation clause

00:05

So we will now move on to the compulsory acquisition hearing number two. So again, I won't reiterate what the application is for everyone has heard that the purpose of this compulsory acquisition hearing is to ensure adequate examination of the provisions set out within the DCO seeking to authorize compulsory acquisition of land and to access whether the conditions relating to land being required for the development, or required to facilitate or be incidental to that development are met, and whether there is a compelling case in the public interest for the land to be acquired compulsorily. Now in the first part of the agenda, we wish to hear from affected parties and interested persons who have any comments or concerns in respect of change request number one and the land rights affected by that change. And then we will move on to outstanding objections to compulsory acquisition from individual affected persons. Now we've not received in advance any indication of a wish to speak, so can I just again check whether anyone present wishes to raise anything with regard to change request number one and the land rights that are affected by that now,

01:42

again, I'm not seeing any raised hands, so that's fine. We can move on then to our next item. And really what we are seeking to do is to get an update from the applicant in respect of the outstanding objections to compulsory acquisition and temporary possession. So if I can hear from the applicant regarding those outstanding objections and what the latest position is, please,

02:21

yeah, good morning, sir. Andrew Tate Casey, for the applicant, just to introduce the team at the table. To my left, Miss Leticia Mandra and to her left, Doug Haycock, to my right, Gary Solomon, they're all from Burges salmon. And then on the far right, James catamall, the land assembly lead. And in respect of this item, I was going to ask Mr. Catamal to address you.

03:00

Thank you. Good morning. Mr. Catamun says

03:03

James catimal for the applicant, the applicant now owns or has agreed terms voluntarily require 33 of the 34 residential properties required for the scheme. This includes the now completed purchase of 15

with the British gardens. In addition, terms have been agreed with three further parties principal terms in relation to the acquisition of the properties at house in the tree with both the freeholder and leaseholder and Sheldon nurseries, negotiations are significantly progressed to acquire the following properties in the applicant anticipate agreeing terms By the close examination that includes Robert Hitchens, limited Gloucester Land Company, along with the Crown state commissioners, an offer has been made to all three holders impacted by the scheme to voluntarily acquire the land required to deliver the scheme. And agreements have been offered to all parties in relation for the change generated by the alterations for the flood profiles in the scheme, the applicant has also made two offers to acquire presumed sub soil interest required for the scheme, and that's with over 55 parties. Specifically in relation to the objections that have been received, one objection has been removed by Donald Witten to Sheldon cottages, in terms of job and nurseries, more broadly, terms have now been agreed for the overall acquisition and purchase of pre hope, the entirety of the site, and that's at the request of Mr. Williams. In addition, we have now agreed terms to acquire 10 with the bridge gardens. Those terms agreed with Mr. Wakefield and Mrs. Wakefield for both the residential property of the land that east of it, and we have agreed principal terms with both three holder and leaseholder of house in the tree, and anticipate having legals constructed by the end of examination. So. Several meetings and calls have been held with Mr. Hadley to progress negotiations in relation to voluntary acquisition, and this has included clarifications around the access design and how this interacts with the existing road frontage and his property in terms of the scheme world, with numerous plans having been provided. In addition, the applicant has responded to a request by Mr. Hadley to change the structure of the purchase to a straight acquisition of freehold, and an offer was made to Mr. Hadley on the 29th of October. On this basis, the applicant's in regular dialog with Mr. Smith's agent, Andrew Smith, as the owner of three Tewkesbury road, and we hope to conclude negotiations, likely not by the end of examination in the near future. I think the applicants made clear through the written representations to date, the position in relation to the safeguarded land. An offer was made to acquire property, and then that stood stands. But there are obviously more practical matters which are ongoing through discussions. There is a meeting proposed between GCC and Mr. Bauer. We commencing the 25th November. We have had several meetings with Chopin Borough Council in relation to barn farm and the acquisition required in that location. And understand that the practical considerations in relation to farm, farm have now been resolved, but there are concerns that remain in relation to the interaction of the scheme with future access through to their site, the app. And has also met with JW, JW, Bruce and sons and provided clarifications on the southern agricultural access to barn farm, which will maintain, being maintained through construction and beyond, along with reassurance that this will be a conversation that continues through detailed design process, a meeting was held with the newly appointed agent for the middle and land portfolio land on the 22nd of August, suggestions and proposals were put forward to heaven. As yet, we haven't received a response from them, but continue to chase for progress towards a voluntary acquisition in that area. Also. It's an update on all of the outstanding objections at this point.

07:22

Thank you for that. Can I then just, I'll just go around the virtual room to see if any of those who are present and represented, who were named there wish to make any further comment in response to what you've heard so if I come to Mr. Hadley first,

07:53

is there anything you would wish to say? Mr. Hadley? I

08:14

I can see a symbol for Mr. Hadley on the screen, but at the moment, I'm not getting any recognition that he can hear me. So if I'll just move on then to Mr. King to see whether there's anything you would wish to say on behalf of the brutons.

08:34

Yes, good morning panel. We've only got one outstanding query, really, and that's in relation to the land which is identified as being used temporarily and rights to be acquired permanently. That in this case, it extends to an area of approximately 9201 square meters, and we believe that it relates to maintenance of hedges and installation of a noise fund, but we haven't been provided with any definitive details.

09:08

Are you able to tell us which land plot that that relates to Mr. King? It's landed, barn farm, barn farm, okay,

09:20

which identifies land on both sides of the motorway, principally on the west side.

09:32

Okay, thank you for that. I'll come back to the applicants in a moment, but I'll just carry on going around the room to see if I can just hear from other parties who are present. Mr. Hadley, you able to respond yet at all?

09:59

Okay, well. I, I'm not, guess, still not getting any response from Mr. Hadley. Your hands come up, so that's good. I can't hear you yet,

10:10

and my batteries went on my mouse. Sorry about that,

10:16

and it's nice to understand that what, the issue was. So yes, if you can just respond. Thank you.

10:27

I've produced a paper here, which I think sets it out quite succinctly. At every meeting I've had with the applicant, and indeed, in every inquiry hearing that I've spoken, I have constantly requested a roundabout instead of the post signal junction on the old Gloucester road. The signal junction will make the access for development of my landing possible, as GCC do not want to see these objections at that location, the effect of not having an access for development onto the b4, 634, will effectively discriminate and sterilize by site which is within the strategic allocation. There is no equalization provision within the West Cheltenham strategic allocation, and therefore no formal access arrangement

between landowners exists. However, some modeling mipl have an agreed access for GCC into their site, as clearly shown on the drawings, have no arrangement to connect to this access across st modellings mipl land this proposed GCC access not only materially affects my site, it severely compromises it, but GCC will not allow further access onto my northern boundary, close to the proposed signal junction, as It is, my existing agricultural access is going to become a major highway safety issue, as the size of machinery we use cannot be safely accommodated when crossing the road. The applicant has tried to justify the agricultural access improvements, but the sweat path analysis drawings illustrate, machinery on the joints is much smaller than we use, and tractors and their trailers cannot turn right angles into stationary or moving traffic. Therefore, the proposal simply does not work on a practical or safety level. Therefore my wife Tessa Hadley and myself still formally and strongly object to the latter section of the proposed skirt road between the northern side of the b4 634, old Gloucester road into part of the West Cheltenham strategic allocation. Now the solution to gaining access to my site is to create an access off Hayden lane. During the course of the inquiry, basic negotiations and correspondence have taken place with highways development management regarding pre application matters. On the seventh of June, a note was issued stating that up to 30 residential units could be considered and to pursue a planning application, as this number of units is below what the site could comfortably accommodate, a request was made to car determines the applicant saving or an increase in Unit numbers. On the 14th of October, we received an email stating the following line, we also discussed the pre app, which Mr. Hadley had from GCC HDM, which he had concerns over the number of units which could be developed on site. We have now had comments from them saying that access of Hayden lake would not restrict the number of units which could be developed on site. Now, while this line in itself is very helpful, it does not give me the required detail or flesh on the bones, as I've referred to previously, on which to make a robust planning application as GCC, HDM on the highway authority, I would have thought that it would be the simplest thing to supply the following one GCC required access specification for a residential development of Hayden lane for an unrestricted number of houses. I. Secondly, agreement that a planning application only needs to confirm that connection and access to green transport be made available. Thirdly, confirmation that there would be no further requirement or traffic surveys and the like at the planning application stage and fourthly, agreed working, sorry, agreed wording so that either size lawyers can produce a required agreement before a planning application is made, the four above points would then put me in the same clear position as St modellings, and also, if the st modellings access and have abooted my site, I'd have been able to couple onto it. I was told by Carter Jonas at a meeting on the 18th of September, and several times since that, a draft agreement with GCC would shortly be, provided this was to cover an agreement in principle regarding an access into my lab from Hayden lane for the purposes of residential development, and that this would state that there will be no reduction in the development capacity of the site with an access from Aiden lane as compared to the old cluster road. This was to address my concern that the proposed scheme will make access for development into my site impossible and would sterilize the site if an equivalent access was not available from a delay. And most alarmingly, I've now been told by cardi Jones that such an agreement will not be possible, because this is not something that can be provided for by the DCO. I'm well aware of this, but no one has ever suggested that this matter should be catered for in the dcl. However, an agreement can be entered into by GCC, although, although the land to be assessed, accessed from Haven lane is not within the red line application boundary for the dcl it would be perfectly acceptable and normal from promoting authority to enter into agreements covering land outside the DCO boundary, because land close to the boundary is often affected By the proposed

development, and in this case, significantly I'm very disappointed, if not shocked, that GCC suggested that an agreement can be reached and has now withdrawn this at such a late stage, shortly before the close of the examination. I would therefore like to request that the panel directly asked GCC to progress an agreement, and should, importantly report back to the panel regarding process progress. It seems to me that this may be the only way to ensure that GCC provides the agreement that was promised in September when the applicant provides the information agreement, and an agreement is reached on the four points I've highlighted, then I will be able to withdraw our formal objection, withdraw any possible ECHR action, and prevent any substantial claim by me on the public purse for being disadvantaged due to the sterilized sterilization of the site, etc. Now yesterday, only yesterday, my agent had a chat with message catamol, entirely of Carter Jones and I received a call from Ian hunt of highways development management. I have to say, nothing was resolved in either meeting, as Carter journalists simply refer my agent back to GCC, despite their promises of letters and agreement back in September regarding financial offers, which they touched on earlier on this morning, one financial offer on the table is nil and the other offer is slightly above nil. When I spoke to Ian hunt, he wanted to go back and talk to someone else, so no real commitment there. Now to me, both the clear examples of the applicant just kicking the can down the road and not wanting to be proactive in solving the problem of development access to. Into my side, a problem that GCC have themselves created due to the signal junction. Therefore, I sincerely hope that the panel will be able to secure the right the required basic information and simple agreement for both the applicant and myself to move forward on agreed terms.

20:31

Thank you, Mr. Hadley, obviously, a lot of those comments you've made are about the access arrangements in terms of the compulsory acquisition, which is what we're trying to deal with just at the moment. Are there any specific points on compulsory acquisition that remain of concern to you?

20:54

Well, yes, I mean the low level of the offer. I mean my side, my site, is allocated within the development plan. And for some reason, Mr. Catapult seems to think that I'm going to have some Betterment to my land. And therefore, because of the betterment, he will offer me nothing. I'd like to know what that Betterment is, because there's no betterment, as I can see it. In fact, there's only detriment, because I can't get access to my site. So as far as the compulsory acquisition is concerned, we're just going nowhere.

21:42

And do you have any specific arguments relative to the statutory tests that we need to apply in considering the compulsory acquisition? I

21:56

have to say I don't know what those statutory tests are.

22:02

Okay. We went through

22:03

statutory tests. To me,

22:08

sorry, I didn't catch that. Nobody

22:10

has explained no statutory tests to me.

22:16

We went through each of the individual tests at the first compulsory acquisition hearing which I believed you attended.

22:23

I did. I did, yeah, I must say, I've, I've forgotten what they're

22:30

okay, and your agent, in advising you has not gone through those with you either.

22:36

Well, not for some time. I mean, just to recap, we all have lives today, and we've just gone round and round in circle with either GCC or Carter journalists, if Carter Jones have got something that they want to specifically shoot me then then fine, but they keep really, there is no incentive for me to do anything with the offer that they've made, no matter what statutory tests are in place. When if somebody offers you nil for what you actually own, then what incentive is there to move forward? In my case, there's not

23:25

Okay, understood. Thank you, Mr. Hadley,

23:35

in terms of your requests to the examining authority seeking to require an agreement between yourself and the county council. I don't believe that's something that we can reasonably pursue, and the reason I say that is that this is not a planning application under Section 78 it is a an application for a development consent order under the Planning Act, and we are dealing with the national infrastructure project and having to assess that against national policy in particular. And I don't believe it's something that we could insist that the county council enters into with you, but I will give the applicant the opportunity to respond, but I don't think it's something we could reasonably facilitate in any event. So I'll come then to the applicant, because I don't believe there are any other parties present representing individuals who have outstanding objections. So the app. Can please?

25:04

Thank you, sir, can I ask Mr. Catimo, first of all, to respond to Mr. King about the purpose of acquisition of some land. And then come on to Mr. Response, to Mr. Hadley, so

25:25

first of all, Mr. King, please. James casamos, for the applicant in relation to the temporary possession and permanent rights referred to by Mr. King, the land is required for the construction and maintenance and environmental barrier the rights going beyond the construction phase being in conjunction with that continued maintenance of the barrier, moving on to Mr. Hadley's sort of comments and response, the applicants, probably most clearly set out a response to a number of these points in relation to detail in rep 7009, part nine, specifically on the points regarding matters of safety, land take and requirement and the need for it, with respect to the sort of letter issued on the seventh of June, referring to 30 units being deliverable for Mr. Hadley's property from a Hayden main access. The 30 units was a number that was put by Mr. Hadley, as opposed to one that was proposed by Bucha county council highways development control. This was discussed at a meeting that was had with Mr. Hadley on the 18th of September, as referred to that point, a proposed agreement in relation to a future planning application, the detail of which is unknown, wasn't proposed, but an undertaking to explore the unit numbers with Bosch county council was taken forward, and commitment was given to provide a written response to the point, and that written response having been issued on the 18th of September as reference, sorry on the 14th of October, apologies within that it was confirmed, as Mr. Hadley set out, that there wouldn't be a restriction or a limitation on the number of units that could be developed within this property from an access off Hayden lane. And on that basis, further dialog has been had with him and his agent over the coming weeks in relation to how that can be better explained and presented. And I think the applicant is happy to take away those conversations and continue them in relation to it. At this point, I don't think we're in a position to offer any formal agreement that would predetermine a planning application to make him the future on the site respondent for specifically on the compulsory acquisition test. And the offer which has been made, an offer was put to Mr. Hadley, which is reflective of the open market value of the land, and taking account of compensation code specifically as reference betterment and the allocation at a seven is contingent upon the highways improvements which are proposed and delivered by the scheme, being the West John and link road between the old Gloucester road in the a 4019, for that reason, the applicants in as a clear improved position the development of the map that land being provided by the scheme, therefore the offer is representative of it, and no point as an offer with nil consideration being proposed.

28:42

The just a couple of points. Can I clarify with you, Mr. Catamall, or maybe a member of your team, the County Council's highways development management team, that have been in these discussions? Am I right in thinking that they are the team that effectively provide consultation responses to the planning authorities who are the determining authority for the planning applications,

29:13

James cassimo for the app, that's correct.

29:16

So even if you wanted to make a commitment, you're not in a position to do so, because you're not the determining authority that is. Thank you. And in terms of the betterment argument, you've heard Mr. Hadley's concern that he doesn't feel that there is a betterment situation because, well, for two reasons, as I understand it, firstly, the location of the proposed junction would compromise him having an access onto the Gloucester old road. And I think fundamentally, I. Um, he's posing the question whether having

the access as proposed is undermining his ability to for his allocated land to be developed. So can you respond to those two points, please.

30:23

James Catton, off the abdomen. It's the admin's opinion that the developments of Mr. Abbey's land can be delivered utilizing Hayden lane to the south. Therefore the scheme doesn't prevent the development of his land. The wider highways improvements which are being delivered by the scheme will still be required for the units which are being delivered on this to have these nine regards as to whether they're directly accessing onto the link road or not.

30:53

Do you accept what he says that by having the junction proposed where it is it is unlikely that a second junction onto the Gloucester old road would be able to be facilitated.

31:18

James Catamount for the app and would be for the Gloucester County Council highways development management team to confirm,

31:27

okay, no, that's fine. I think we Yeah, I understand the position. Thank you. Can, can I just come to the joint councils please just see if there is anything further you would wish to add regarding the conversations and the discussions that you've heard so far.

31:51

Andrew Padden for the joint councils, no, not at the moment. There are some issues there that we will need to take away and discuss with highways development management team. I was aware that Ian Hunt had spoken to Mr. Mr. Hadley yesterday, and Mr. Hunt is not on on the call today, so is unable to do it. So we will be able to take, take this away and and deal with it separately and respond in writing if we believe that we're required to

32:31

Okay, thank you.

32:37

Okay, Mr. King, I know you have raised your hand, is there something further you'd wish to say,

32:47

yes, thank you. I'm just coming back to Mr. Catamos response in relation to the areas that are proposing to be required, acquired and then rights to be retained. I don't believe that there's basically our club is a tenant of Borough Council and agricultural tenant. There's two enclosures on the west side of the motorway and two on the east, which is indicated on the acquisition plan, which was published on the 24th of april 2023 and follow the meeting that we've had on site up the week preceding that date, and we're still truly, really trying to understand why the acquiring authority is looking to retain the rights. As far as we understand, only one meeting I had last week, only one of those plots, which in support 3b

was allocated as a noise fund. Some of them were allocated as as hedgerow retention. As far as I understand, there's also a corridor of land either side of the water course on the west side of the motorway, which is identified for forward slash 3h which is also a connection to an attenuation pond. And we basically, the applicant is, well, the respondent is looking for a response from the acquiring authority of exactly what those rights to be retained relate to and what management prescriptions are required on them. We understand that our client is a tentative Borough Council, but I think it would be useful if we had an understanding of what those rights to be equal retained are going to be

34:30

okay. Thank you again. Come back to the applicant, see if you can clarify that for us.

34:41

James catamos, I think the best thing would be to provide a schedule to Mr. King, which sets it out in detail on a plot by Prop basis, and we'll follow up with that following the hearings.

34:55

That would be helpful. I would say that we have been requesting this in. Is our first meeting of april 2023, okay,

35:05

well, that would be helpful if that can be provided and if it's also copied into us, so that we can see how that's progressing and how the various plots are affected. That be very much appreciated.

35:35

So just sticking to the compulsory acquisition points, I Are there any further comments on compulsory acquisition that any party wishes to raise that we have not already covered this morning?

36:00

Okay, I'm not seeing any raised hands. So can I just then request from the applicant that, sorry, just seen a late raised hand. Mr. Hadley, is there something further you wish to Yeah,

36:18

I just want to put the record straight. Mr. Catapult said earlier that he'd never offered me nil for the land. And that is not true. I have it in writing that that is what he offered. So I just reiterate, what incentive is there for me to do any deal with land assembly guys to offer you nil, don't respond in a timely manner, leave you hanging, as I've clearly set out all through this inquiry, they're just simply not proactive. So as far as I'm concerned, I'm not really interested in waiting wasting time on it. I mean, why would anybody particularly I'm a retired person. Why would I want to spend my time trying to negotiate with an assembly guy who's not going to offer me anything for an asset that I owe? I just think it's outrageous. But anyway, if the acquisition tests allow that, then they allow it. But so I just don't think that that's reasonable.

37:52

Thank you, Miss Handley, I understand your position clearly. We are not the authority that determines any financial conclusion in respect of land values, that's a different body. But I just come back then to the app and for a final say, Should you wish to make one?

38:22

Jane, James castle for the applicant, we're happy to provide a summary, and we'll send it through to Mr. Hadley in relation to the offers that were made in May, July and October of this year. Obviously, provide that to yourselves as well, sirs, just for absolute clarity on what was made and when, and I would just simply agree in relation to the authority to deem appropriate compensation if and when that was necessary.

38:52

Okay, thank you. I think then, just to wrap that point over, just a request from us that when it comes to the final submissions from the applicant, that we get the land rights tracker updated to the obviously most up to date point that you can and also provide that in an Excel format so that we can manipulate that to understand the various positions of the different parties. So if you can provide that for is it prior to the end of the examination, thank you.

39:40

So I think that takes us then on to Agenda Item four, on as part of this compulsory acquisition hearing. And I don't believe we have any statutory undertakers present today. I. So. But if you are present, please raise your hand. In case I've missed anybody from looking through the various names and attendees. No, no, no, raise hands. Okay. So can I then come to the applicant you kindly provided an update on your position with regard to Section 127, and 138, of the Planning Act. I just got a few queries. I'd like clarification from you on so if we can turn to the current development consent order, schedule nine. And the latest iteration of that is rep seven, double 02, and the schedule nine starts on electronic page, 156, for those who are wishing to follow it now, in terms of national grid electricity distribution, the areas of Outstanding, as far as I understand, it is with regard to whether a six meter radius or a six meter distance should be applied for all of the assets, and I think you're indicating that that would not be appropriate. And can you give us any more clarity on what the implications would be if the Secretary of State or we considered that the six meters was appropriate? You know? What specific examples could you provide for us as to the the implications that it would create for you and the scheme.

42:09

Good morning. Leticia Mandra speaking on behalf of the applicant, the applicant is seeking to have a graded definition where six meter applies to extra high voltage assets, and one meter to high and low voltage assets. There's two specific situations, and this is linked to the second area of disagreement, which is the approval procedure for specified works. And there are two specific examples. One is along the A, 4019, where there are multiple connections into existing properties which are proposed to be demolished and will trigger the protective provisions and the specified works approval process. The second is around the link road, and at the point of construction of the link road, this would not be adopted highway, therefore the protective provisions would be trigger. The main concern is not only around the multiple connections that have been identified, but also around connections which have not

been identified. And the applicant believes that there are sufficient that this specified works definition will be constantly triggered. Therefore, we asked for a graded definition to avoid lengthy approval procedures between and get and the applicant.

43:39

And is it? Is it the 40 day time frame, as opposed to 60 days, you see, that's critical.

43:49

Let this year manga on behalf the applicant, yes, the 1460 days critical. But it should go hand in hand with this graded definition. It would work much better if we could have different distances depending on the level of voltage of the assets, together with a reduction of the 40 days or further amendments to the proposed plans,

44:16

and The justification in terms of the distances involved that relies on a health and safety executive guidance is that something that has been provided into the examination, and if not, could it be

44:34

Leticia Andre on behalf of the applicant? Yes, that can be provided. It's an interpretation of the guidance, yeah, and it can be provided. We can provide it together with the written summaries.

44:50

Thank you. When, when you say it's an interpretation, that's the applicant's interpretation of the guidance is that, is that what you mean?

44:57

Leslie Samantha, and we have the applicant, yeah, that's correct. The distances proposed in regards are exclusion zones for safety, and we have translated that into these specified work areas following the exclusion zones.

45:17

And is that a consistent approach with other DCOs.

45:26

Let the semandra on behalf of the applicant, we will have to go back in writing from that point.

45:35

Okay, thank you. And I think the second point that you expressed concern about with regard to the provisions that National Grid were were seeking was with regard to the cap on liability of negligence. So again, if you can just explain to me in more detail the problems as you see it,

46:03

Leticia Mandra, on behalf the applicant, that point has now been agreed, and we agreed to remove that from our protective provisions, provided that a cooperation clause is incorporated that has now been

agreed. So the next version of the DCO will remove the liability clause and include a cooperation clause. No, sorry, keep the liability clause and incorporate a cooperation clause, but it's the point that has been agreed with a national grid. Now,

46:34

okay, so that so that matter is is resolved.

46:39

Let me send and be the applicant. Yes, right.

46:44

Thank you for that. So if we then move on to the Wales and West utilities, it's a similar issue to start with in terms of a separation distance, in this case, a 15 meter radius. Again, can you provide us with practical examples of what the problem would be if those distances are maintained as the utility company is seeking

47:16

decrease Amanda on behalf of the applicant, I don't have specific examples for this, but the position is that 15 meter radius would capture too many works and would be impractical to seek approval. We have also proposed a greater definition, one that is where works are not compliant with safety in practice, and we set out the practice. Then it's no distance, and then the second one is four meters, measured in any direction, but we can provide specific examples in writing.

47:53

Yes, that would be helpful. Thank you. Now this would appear to rely on a copy of, again, Wales and West utilities guidance, which I think you're telling us is what you're doing is complying with that again. Could a copy be provided into the examination so we can understand the what that says,

48:25

Ladies and Gentlemen, we have the applicant. Yes, you can provide that inviting.

48:30

Thank you. And the next point that they raised was the acquisition approval. I

48:43

What? What is it that is the difference between you on that element,

48:53

we have the applicant, the applicant would like to remove this clause, or rephrase it so that is for acquisition of apparatus instead of land. We believe that having a restriction in the exercise of our compulsory purchase powers could hinder the program and put us in a position where we can't exercise powers that are within the order. This is in line with the most recent government guidance on the drafting of protected provisions that specifically refers to the this point, and it says that protected

provisions should also not simply negate other provisions of the DCO, particularly concerning proposed compulsory acquisition of statutory Undertaker's land,

49:48

yeah, and it's not to a certain extent this is a question for the utility companies. But has there been any. Evidence presented to you in the conversations that they've had with you that there is any evidence that there wouldn't there would be serious detriment to the their operation

50:18

in the event that what you're proposing is followed through into the DCO at this year on down.

50:27

We have the applicant. No, we have not been provided with any specific evidence. And I should also add that we are on the applicant is only proposing to acquire rights over land where the statutory Undertaker has right. So it's the situation that we would be coexisting in rights in somebody else's land. We are not proposing to acquire free homeland belonging to a statutory Undertaker.

50:55

No, I understand that it's the same for National Grid and seven Trent, I think, and I was just interested in the wording that you'd put into your document. So that's fine. Really, it's for them to present evidence to us, and we'll then obviously judge that subject to what they actually say. So that's helpful. Thank you. So if we then move on to seven trends, access to apparatus in the stopped up streets. Now, as I understand it, seven trends are saying that they must have access at all times. Have they explained to you why they consider that to be necessary and appropriate?

51:47

Leticia Mandal, we have the applicant. They have set out some reasoning. I believe there's a misunderstanding, because we are not restricting access to the site at all. The applicant is proposing a notice process by which we can we can anticipate any interest inside, because this would become a construction site, and this is because the applicant seeks to ensure that safety and efficient operation of the authorized development can be carried out at all times, but there are no restrictions on the access, just a requirement to have reasonable notice prior to the access. And there is a caveat in situations of emergency.

52:38

Yes, I'd understood that there was the caveat in place. But is there any way of specifying what a reasonable period is?

52:47

Leticia and round we have the applicant? No we could look into that. Our position would be that a reasonable period would depend on need and length access that we can definitely explore this

53:13

it's probably worth doing so just just so that we can understand whether it's going to be sensible or helpful to have a time period specified, or whether that's going to make it more complex. And also perhaps, if there are other DCOs where a similar issue has arisen, that you could refer us to to see how that has progressed, matters constructively. That would be helpful.

53:42

Let me see Mandarin, we have the applicant who will do that. Then I can volunteer.

53:49

Thank you. And the seven Trent appear to want to have similar restrictions on compulsory acquisition to those raised by Wales and West utilities. So I'm assuming that the arguments that you're presenting are similar to those that you've already put forward this morning.

54:08

Let the same on that when we talk to the applicant. Yes, same arguments.

54:13

Okay, thank you. And so for all three statutory undertakers, you're proposing diversions, and the way I read your document, you don't consider there would be any serious detriment to the operation of their undertakings as long as those diversions take place. And the DCO is written in such a way that the diversions must take place first before the current operation is removed or taken out of action.

54:54

We have the applicant. That's correct, and that is reflected in the Protect. The commissions.

55:03

Thank you. I think my only other point really, with regard to seven Trent, your definition of specified work, which is under Section 40, is then split into A, B, C, D, for the different diameter of pipe, and then the separation distance that you would be looking at, and that's on electronic page 172 I think in the DCO.

55:39

I'm just slightly concerned that you're drafting in that the consistency of the wording for as the pipe sizes change, whether every pipe is going to be caught. So for example, for the 4.5 meter separation, I think you say pipe between 451, and 750, mil. So is there a gap between 450, and 451, mil for the other one? So would it be better worded for that one to be saying by exceeding 450

56:27

Let's be happy. Applicant sounds reasonable. We would look into this.

56:34

Thank you. And my only other query on this is, before you're starting work, how do you know what the size of the pipe is? So that you know the separation distance you need to apply?

56:51

Let this year man down. We have the applicant. I'm part of the legal team, so my technical knowledge is limited, but I believe they rely on data provided by certain trends, but I can confirm this and get back in writing. Okay,

57:07

helpful. Thank you. I

57:27

now, can I just confirm with you then that the national highways as a statutory Undertaker, they have confirmed with you that they are content now with all of the compulsory acquisition elements that involve their land. All rights.

57:53

Gary Solomon on behalf of the applicant when he says, That's my understanding.

58:02

Okay. Thank you. So that's the sort of questions that I had in respect of the statutory undertakes. Can I just check that whether there's anyone else in the room who would wish to raise any queries or questions on any of those points.

58:31

No, I'm not seeing any raised hands, so that's helpful. Thank you very much. So then move on, then to the latest position with regard to focus item five on the agenda, the applicant's position in its discussions with Crown estates and government departments. Now, you touched on this earlier. Can you just give me a bit more detail on the status of the position in respect of each of the government departments and the Crown estates. Thank you.

59:07

Thanks, sir Doug Haycock, for the applicant. So I'm just going to be touching some on our engagement with the appropriate crown authorities in relation to Section 135 consent with the land acquisition engagement being a separate process. So we've got three appropriate crown authorities. These are delac, or now Ministry of Housing, communities and local government, the crown, state commissioners and Defra. We have yet to obtain confirmed section 135 consent in writing with any party in relation to delac or Ministry of Housing. We are in advanced stage of getting a signed letter from them. We've been in continued engagement with them recently, and. And we fully expect to be able to provide that within the examination in relation to the Crown state commissioners, discussion around 135 consent has been ongoing, alongside engagement with heads of terms for the acquisition of an option we're discussing with their agent at the moment on the possibility of them releasing a section 135 letter once we have signed heads of terms. And we expect that, well, we hope for science heads of terms to be happening within the closed Examination, or soon thereafter, in relation to Defra, that can provide initial letters to Defra on the 19th of March, 24 it subsequently chased its contacts on the ninth of May, 3 of September and 12th of November, And today hasn't been able to elicit a response. It continues to

chase and is exploring further contacts that it can try and obtain a response from. So, and that's position as it stands. So I'll pause there in case you need any further. Thank you.

1:01:26

So you had no response at all to your four letters.

1:01:33

Yes, that's correct. So that's yeah.

1:01:39

Have you been able to have any conversations or any form of communication with the representatives at Defra

1:01:48

at the moment, so my understanding is that's That's correct. We haven't had any communication at all at the moment. The applicant is looking to escalate its contact and try and explore any other contacts it has internally to try and get something moving on this.

1:02:10

Just bear with us. We seem to have an auto power off here. I

1:02:24

That's good. It's just like the remote at home. We haven't pressed the buttons often enough, so I'm just trying to slowly work through where that leaves us, and you the applicant in terms of the section 135 position, if you've had no correspondence with them at All,

1:02:52

yeah, so

1:03:00

you'll be aware, says that article 43 of the DCO does ensure that the DCO is aligned with section one three i of Planning Act, and essentially replicates those protections for Crown authorities in there. It doesn't take us much further forward. It just means that we have to ensure we obtain the consent of the crown authorities. But it helps bake in the consent process within the face of the order. Unfortunately, I think when you look at government guidance of obtaining section 135 consent, it does advise applicants to try and obtain these consents at the earliest stage possible. It's not unheard of for these consents to drag out, and indeed, we have had experience of when an order is at the decision stage. So with the Secretary of State, that Secretary of State might have to ask further questions as to whether 135 consent has been obtained at that stage. And whilst we acknowledge that there's no no way ideal, it's not an unheard of situation,

1:04:14

I appreciate. It's far from unheard of, unfortunately. And you'll have noted second written questions we wrote to the various departments and asked them for their views on Article 43 and the response was deafening. So that's something that we will consider as to how we report, but that's helpful. Thank you.

1:04:41

But you're hopeful that you're going to get a positive response from the department for housing, communities and local government is, is Defra, which is proving more difficult?

1:04:51

Yes, that's correct. So it's only in terms of Defra, where really we're, we're, we're not far enough forward to be able to say anything. I mean, it. You will have received yesterday our response to your written questions, those written questions. This goes into some detail on this, but just in relation to Defra itself. It should be noticed is that defra's interest in the land, relevant land is only in relation to a land charge within a redemption tithe rent dated 1922 and that land concern sits within the adopted highway already. And given that factual background, we do consider it highly likely that consent could be reasonably withheld, given the nature of the rights, but clearly we have to obtain engagement from them on that.

1:05:50

Yes, thank you. Well again, I'll just check in the virtual room whether any other party wishes to raise anything further, having heard what you have with regard to the positions on Crown, estate and government departments?

1:06:16

No, I'm not seeing any raised hands. So just takes us then to item six. Are there any other matters dealing with compulsory acquisition that people would wish to raise with us that we've not already covered this morning,

1:06:39

again, I'm seeing no raised hands. So that really then just takes us to just checking with you the action points that have arisen from the compulsory acquisition hearing this morning. So I'll just bear with me whilst I have a brief discussion with my colleague. You okay, I'll pass over to Mr. Regan to just go through the action points. Thank you.

1:07:12

Thank you, Mr. Mond, my notes suggest there are six action points relating to compulsory acquisition, and please do raise your hand if anybody has any differing recollections of it, or any any additions they wish to propose. Thank you. So the first one relates to the discussion with Mr. King earlier, and it's for the applicant at the next deadline, please to provide a schedule which clearly sets out the need and the purpose for each of the plots affected. The second action point relates to the discussions we had with Mr. Hadley earlier today. And again, it's for the applicant and the next deadline to provide a summary of CA matters and engagement with regards to his land. Please, the third action again for the applicant, and it moves on to our discussions around the protective provisions. Please, can the applicant provide a position statement regarding the distances relevant to specified work areas based upon the Health

and Safety Executive guidance that they were talking about under the guise of DCO schedule nine, action point four, again, is for the applicant that the next deadline, please to provide a position statement with respect to Wales and West utilities with regards to the distances relied upon, I think you referred to using their own specific guidance. And again, if you could report back on what we should be taking from that, please. Action Point five is with respect to seven Trents, and it was clarification, really, as to what is considered to be a reasonable notice period and why that is reasonable with respect to basically advising about access to assets within stopped up areas of roads and streets, etc. And the last one I have, again, is with respect to the discussions we had around seven Trent and it was for the applicant by the next deadline, please to consider whether any modifications would be helpful with respect to the form of words, with regards to pipe diameters and separation distances that those are all of the ones I have. So again, I'll open up to the virtual room and Mr. Morne to invite any any additions or changes. Thank you. Applause.

1:10:00

Not seeing any raised hands. So I think that concludes the action points. Thank you.

1:10:07

Thank you, everyone. Can I just, whilst Mr. Regan's been going through those, can I just check with the applicant? This might sound like a stupid question, but in light of the silence to your inquiries with regard to death row, are you confident you've been writing to the right person, people, part of the department?

1:10:39

I mean, it's a valid question, sir. I mean, we are trying to explore other options as well, using personal contacts to try and get some traction. We're confident we are writing to the correct correct body and correct address.

1:10:57

I wasn't doubting that. You were I'm just it just, was a question that occurred to me, and I just thought I'd ask it, rather than leaving the room and wondering, thank you. Well, I think that then really takes us to the end of this compulsory acquisition hearing. Thank everyone for their contributions, and we will draw it to a close at 1118 so I think it's probably an appropriate time to take a break prior to commencing the issue specific hearing. So would it be I would suggest we will come back at quarter to 12. So recommence at quarter to 12. Should anyone be watching on the live stream? Just remind you that you will need to restart your browser page. Should you be viewing via that means? So thank everybody for attendance so far this morning and this hearing is now closed. You.